

**COURT OF APPEAL  
STATE OF CALIFORNIA  
THIRD APPELLATE DISTRICT**

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**The Minutes**

**January 22, 2007**

At 9:32 a.m., the court met in the Library and Courts Building to begin its court calendar session. Present were Scotland, Presiding Justice; Hull, Associate Justice; Robie, Associate Justice and Harper, bailiff.

**C049801      R.H. DYCK, INC. v. HAYNES, et al.**

Cause called. Randall F. Wright argued and Richard M. Ross appeared only for appellant. Richard M. Watts, Jr. argued for respondent. Cause submitted.

At 9:43 a.m., the court recessed. At 9:47 a.m., the court reconvened with Sims, Associate Justice; Hull, Associate Justice; and Robie, Associate Justice.

**C051706      BICKFORD v. ELK GROVE WATER SERVICE et al.**

Cause called. Robert P. Biegler argued for appellant. Franklin G. Gumpert argued for respondent. Cause submitted.

At 10:03 a.m. the court reconvened. At 10:12 a.m., the court reconvened with Davis, Associate Justice; Nicholson, Associate Justice and Robie, Associate Justice.

**C052159      JORDAN v. CITY OF SACRAMENTO**

Cause called. Jay-Allen Eisen argued for appellant. James F. Wilson, Deputy City Attorney, argued for respondent. Cause submitted.

**C052559      COWLEY v. THE SEATTLE TIMES COMPANY**

Cause called. Rochelle Wilcox argued for appellant. Michael A. Bishop argued for respondent. Cause submitted.

At 11:03 a.m., the court recessed. At 11:10 a.m., the court reconvened with Nicholson, Associate Justice; Robie, Associate Justice and Butz, Associate Justice.

**C050809      In re JOHN CLUTCHETTE on Habeas Corpus**

Cause called. Krista Leigh Pollard, Deputy Attorney General, argued for appellant. Rich Pfeiffer argued and Donald A. Miller, M.D., J.D. appeared only for respondent. Cause submitted.

At 11:48 a.m., the court recessed. At 2:03 p.m., the court reconvened with Blease, Associate Justice; Davis, Associate Justice; and Cantil-Sakauye, Associate Justice.

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**January 22, 2007, continued**

- C047630 TOWN OF LOOMIS v. COUNTY OF PLACER et al. and BICKFORD HOLDINGS et al.**  
**C049357 BICKFORD RANCH HERITAGE COALITION OF WPCARE and TOWN OF LOOMIS v. COUNTY OF PLACER et al. and U.S. HOME CORPORATION et al.**

Cause called. Diane K. Hanna argued and Howard N. Ellman appeared only for real parties in interest appellants cross-respondents. Kelly T. Smith argued and Theodore S. Goodwin appeared only for plaintiffs respondents. Donald B. Mooney appeared for plaintiffs cross-appellants. Valerie D. Flood appeared only for defendants appellants cross-respondents. Cause submitted.

At 2:47 p.m., the court recessed. At 2:50 p.m., the court reconvened with Sims, Associate Justice; Davis, Associate Justice; and Cantil-Sakauye, Associate Justice.

- C052039 JONES v. CATHOLIC HEALTHCARE WEST et al.**

Cause called. C. Athena Roussos argued for appellant. Paul R. Baleria argued for respondents. Cause submitted.

At 3:19 p.m., the court recessed. At 3:23 p.m., the court reconvened.

- C052286 MYERS v. TRENDWEST RESORTS, INC.**

Cause called. Steve Williams argued for appellant. Stacey L. Pratt argued and James T. Conley, appeared only for respondent. Cause submitted.

At 3:54 p.m., the court recessed until 9:30 a.m., Tuesday, January 23, 2007.

- C052145 In re MARC L.; THE PEOPLE v. MARC L.  
BY THE COURT:**

On the court's own motion, a petition for rehearing is granted. The decision filed on January 4, 2007, is vacated...

BLEASE, Acting P.J.

**January 23, 2007**

At 9:33 a.m., the court met in the Library and Courts Building to begin its court calendar session. Present were Scotland, Presiding Justice; Sims, Associate Justice; Butz, Associate Justice; and Haskett, bailiff.

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**January 23, 2007, continued**

**C048139 THE PEOPLE v. ROSEN**

Cause called. Charles M. Bonneau argued for appellant. Melissa J. Lipon, Deputy Attorney General, argued for respondent. Cause submitted.

At 10:06 a.m., the court recessed. At 10:11 a.m., the court reconvened with Scotland, Presiding Justice; Davis, Associate Justice; and Nicholson, Associate Justice.

**C050793 THE PEOPLE v. HOLMAN**

Cause called. Richard J. Krech argued for appellant. George M. Hendrickson, Deputy Attorney General, argued for respondent. Cause submitted.

At 10:41 a.m., the court recessed. At 10:46 a.m., the court reconvened with Scotland, Presiding Justice; Davis, Associate Justice; and Hull, Associate Justice.

**C049700 THE PEOPLE v. COUSINS**

Cause called. Richard Glen Boire argued for appellant. David A. Rhodes, Deputy Attorney General, argued for respondent. Cause submitted.

At 11: 10 a.m., the court recessed until 9:30 a.m., Monday, February 15, 2007.

**C051469 VERGOS v. McNEAL (CERTIFIED FOR PUBLICATION)**

On November 22, 2005, order denying Code of Civil Procedure section 425.16 motion is reversed... McNeal shall recover her costs on appeal. (Cal. Rules of Court, rule 8.276(a)(3).)

SIMS, Acting P.J.

We Concur: Hull, J.

Cantil-Sakauye, J.

**C053238 In re E.R.; SACRAMENTO COUNTY DEPARTMENT OF HEALTH AND  
C053725 HUMAN SERVICES v. SHIRLEY R. (Not for Publication)**

The orders of the juvenile court are affirmed in both case No. C053238 and case No. C053725.

NICHOLSON, J.

We Concur: Sims, Acting P.J.

Davis, J.

**C050354 THE PEOPLE v. BURLEW**

BY THE COURT:

Appellant's petition for rehearing is denied.

BLEASE, Acting P.J.

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**January 24, 2007**

**MISC. ORDER 2007-003**

BY THE COURT:

In pending appeals in which an appellant's opening brief was filed prior to the date this order is issued, and in which an opinion has not yet been filed, an application for leave to file a supplemental brief shall not be required before filing of a supplemental brief arguing, based on the decision of the United States Supreme Court in *Cunningham v. California*, (No. 05-6551. January 22, 2007, \_\_\_ U.S. \_\_\_; \_\_\_ S.Ct. \_\_\_; \_\_\_ L.Ed.2d \_\_\_; 2007 WL 135687; 2007 U.S.LEXIS 1324; 2007 DJDAR 965), that imposition of the upper term is unconstitutional. Henceforth, appellants shall not submit for filing any application for leave to file a supplemental brief challenging imposition of the upper term premised on *Cunningham*.

Any supplemental appellant's opening brief submitted pursuant to this order shall be served and filed on or before February 23, 2007. If a supplemental brief is filed pursuant to this order, the time for filing respondent's brief shall be extended by 30 days.

If respondent's brief has already been filed, respondent shall have leave to file a supplemental respondent's brief within 15 days of filing of the supplemental opening brief, and any appellant's supplemental reply brief shall be served and filed within 10 days of filing of the supplemental respondent's brief.

SCOTLAND, P.J.

**C051122      THE PEOPLE v. WILLIAMS      (Not for Publication)**

The judgment is affirmed.

ROBIE, J.

We Concur:    Scotland, P.J.

Butz, J.

**C052411      LEAD HILL ASSOCIATES et al. v. MIZRAHI      (Not for Publication)**

The judgment is affirmed.

SCOTLAND, P.J.

We Concur:    Blease, J.

Morrison, J.

**C051893      In re DOMINIC S.; YUBA COUNTY HEALTH AND HUMAN SERVICES v. THOMAS S.      (Not for Publication)**

The orders of the juvenile court are affirmed.

DAVIS, J.

We Concur:    Scotland, P.J.

Nicholson, J.

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**January 25, 2007**

- C051540      THE PEOPLE v. OSBY      (Not for Publication)**  
The judgment is affirmed.  
CANTIL-SAKAUYE, J.  
We Concur: Raye, Acting P.J.  
Butz, J.
- C052973      THE PEOPLE v. LASTER, JR.      (Not for Publication)**  
The judgment is affirmed.  
BUTZ, J.  
We Concur: Scotland, P.J.  
Robie, J.
- C051231      DENNIS-JOHNSON v. THE PERMANENTE MEDICAL GROUP      (Not for Publication)**  
The order of August 23, 2005, denying the second motion to dissolve the injunction is affirmed...  
ROBIE, J.  
We Concur: Scotland, P.J.  
Raye, J.
- C052951      THE PEOPLE v. RUMBLOZ**  
BY THE COURT:  
Appellant's motion to recall the remittitur and to reinstate the appeal is granted...  
DAVIS, Acting P.J.

**January 26, 2007**

- C048663      THE PEOPLE v. GARCIA      (Not for Publication)**  
The judgment is affirmed.  
MORRISON, J.  
I concur: Butz, J.  
I concur... Sims, Acting P.J.
- C050396      THE PEOPLE v. ROMANO      (Not for Publication)**  
The judgment is modified... As modified, the judgment is affirmed. The trial court is directed to amend the abstract of judgment to reflect this modification, and to forward a certified copy of the amended abstract to the Department of Corrections and Rehabilitation.  
SCOTLAND, P.J.  
We concur: Davis, J.  
Nicholson, J.

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**January 26, 2007, continued**

- C051269      THE PEOPLE v. HORTON      (Not for Publication)**  
The judgment is affirmed.  
MORRISON, J.  
We Concur: Scotland, P.J.  
Robie, J.
- C051290      THE PEOPLE v. GOMEZ      (Not for Publication)**  
The judgment is affirmed.  
ROBIE, J.  
We Concur: Scotland, P.J.  
Butz, J.
- C049801      R.H.DYCK, INC. v. HAYNES et al.      (Not for Publication)**  
The trial court's order denying defendants' request for attorney fees and its order taxing costs are affirmed.  
SCOTLAND, P.J.  
We Concur: Hull, J.  
Robie, J.
- C050425      THOMPSON v. THOMPSON      (Not for Publication)**  
The orders of June 6, 2005, and July 5, 2005, are affirmed. Wife is awarded her costs on appeal.  
HULL, Acting P.J.  
We Concur: Robie, J.  
Cantil-Sakauye, J.
- C050766      GILBERT v. SYKES      (CERTIFIED FOR PUBLICATION)**  
The judgment is reversed. The cause is remanded...  
BUTZ, J.  
We Concur: Robie, Acting P.J.  
Cantil-Sakauye, J.
- C051182      MAPLE v. HUGHES, as San Joaquin County Public Conservator, and SILVA      (Not for Publication)**  
The judgment is modified... In all other respects, the judgment is affirmed. Maple shall recover her costs on appeal. (Cal. Rules of Court, rule 8.276 (a)(1).)  
MORRISON, J.  
We Concur: Davis, Acting P.J.  
Butz, J.

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**January 26, 2007, continued**

- C050730      In re N.C.; THE PEOPLE v. N.C.                      (Not for Publication)**  
                    The order of the juvenile court is affirmed.  
                                    NICHOLSON, Acting P.J.  
We Concur:    Robie, J.  
                                    Butz, J.
- C052247      In re A.M. et al.; SACRAMENTO COUNTY DEPARTMENT OF HEALTH AND  
HUMAN SERVICES v. GENELLA M.                      (Not for Publication)**  
                    The dispositional orders are affirmed.  
                                    BUTZ, J.  
We Concur:    Blease, Acting P.J.  
                                    Raye, J.
- C052574      In re N.H.; SACRAMENTO COUNTY DEPARTMENT OF HEALTH AND  
HUMAN SERVICES v. NICOLE H.                      (Not for Publication)**  
                    The juvenile court's orders are affirmed.  
                                    SCOTLAND, P.J.  
We Concur:    Davis, J.  
                                    Nicholson, J.
- C052668      In re S.G.; SACRAMENTO COUNTY DEPARTMENT OF HEALTH AND  
HUMAN SERVICES v. G.D.                      (Not for Publication)**  
                    The juvenile court's orders are affirmed.  
                                    SCOTLAND, P.J.  
We Concur:    Davis, J.  
                                    Nicholson, J.